

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
STEVE ARGO
PHENIX CITY, ALABAMA

ORDER NO. 95-042-SW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 to 22-22A-16 (1990 Rplc. Vol.) and the Solid Waste Disposal Act, Code of Alabama 1975, §§ 22-27-1 to 22-27-7 (1990 Rplc. Vol.), the Alabama Department of Environmental Management (hereinafter, "ADEM" or "the Department") makes the following FINDINGS:

1. Mr. Steve Argo (hereinafter, "Mr. Argo") operates a solid waste disposal site located near the intersection of Lee County Roads 248 and 315 in Alabama.

2. Mr. Argo has disposed of, or allowed the disposal of, stumps, limbs, wood items, and concrete in said solid waste disposal site.

3. Section 22-27-2(6), Code of Alabama 1975 defines an "unauthorized dump" as, among other things, any solid waste disposal site which does not meet the regulatory provisions of the Solid Waste Disposal Act (hereinafter, "the Act").

4. Among the regulatory provisions of the Act is the requirement that all solid waste disposal sites have a disposal permit from the Department.



5. Mr. Argo does not have a solid waste disposal permit for the aforementioned solid waste disposal site (hereinafter, the "unauthorized dump").

6. A warning letter, dated December 20, 1993, put Mr. Argo on notice that the unauthorized dump was in violation of ADEM's solid waste disposal regulations.

7. During a July 26, 1994, inspection, which took place approximately seven months after the warning letter was sent, ADEM personnel determined that Mr. Argo was still operating the unauthorized dump. Solid wastes were observed at the unauthorized dump during this inspection. The observed wastes included both old wastes seen during a November 19, 1993, inspection and new wastes not previously seen by ADEM personnel. The new wastes included white goods, insulation, demolition debris, crossties, stumps, and some garbage.

8. The Department issued a Notice of Violation (NOV) to Mr. Argo on August 8, 1994, which again put him on notice that he was operating an unauthorized dump in violation of ADEM's solid waste disposal regulations.

9. During an August 25, 1994, meeting with Department personnel, Mr. Argo was once again put on notice that he was operating an unauthorized dump. It was also pointed out to Mr. Argo that he had continued to operate the unauthorized dump after receiving the August 8th NOV. Mr. Argo agreed to stop operating the unauthorized dump and to cover regulated wastes already at the dump.

10. A November 4, 1994, inspection revealed that Mr. Argo had taken no steps to close or abate this unauthorized solid waste dump.

11. Section 22-27-4(b), Code of Alabama 1975 declares any unauthorized dump to be a public nuisance per se, a menace to public health, and a violation of the Solid Waste Disposal Act.

12. During an informal conference held on February 7, 1995, Mr. Argo admitted as true the facts set out in Paragraphs 1, 2, 3, 4, 5, 6, 8, 9, and 11 of this Order. He also admitted as true the facts set out in Paragraph 7, except that he denied he had disposed of or allowed the disposal of "garbage" at the dump. As to Paragraph 10, he stated that he had covered much of the regulated waste, and at the time of the meeting, only two piles of wastes remained uncovered.

13. During this informal conference, Mr. Argo also stated that he had operated the dump continuously since before ADEM came into existence, that he knew he needed a permit for the dump, that he had attempted to get local approval for a permit, that he terminated his efforts to obtain a permit for the dump because preparation of the permit application was too expensive, and that local solid waste officers had cited him on two occasions for operating an unpermitted dump.

14. Additionally, during the informal conference, Mr. Argo stated that he did not timely comply with ADEM's directives because he wanted to start a recycling business but was having trouble finding the proper equipment. He also said that he had

recently spent a considerable sum of money on a grinder that would allow him to recycle most wastes ordinarily disposed of at the dump and that this would allow him to comply with ADEM's solid waste regulations in the future.

15. Finally, Mr. Argo objected to the proposed penalty and asserted that he had already orally communicated to ADEM the plan required in Paragraph C.

ORDER

Based on the foregoing FINDINGS and pursuant to §§ 22-22A-1 to 22-22A-16, and 22-27-1 to 22-27-7 Code of Alabama 1975, (1990 Rplc. Vol.), it is hereby ORDERED:

A. That within 30 days of receipt or notice of this Order, Mr. Argo shall pay to the Department a civil penalty in the amount of Six Hundred Dollars (\$600.00).

B. That immediately upon receipt or notice of this Order, Mr. Argo shall cease, desist, and stop operating the unauthorized dump. Additionally, Mr. Argo shall take all measures necessary to ensure that neither his agents nor any third parties dispose of solid wastes at the unauthorized dump.

C. That within 30 days of receipt or notice of this Order, Mr. Argo shall submit for the Department's review a plan for closure of the unauthorized dump. The closure plan shall conform to the requirements of ADEM Admin. Code R. 335-13-1-.13. If said plan fails to conform to Rule 335-13-1-.13, Mr. Argo shall modify it so that it does.

Alternatively, the Department, at its discretion, may modify the plan so that it conforms to Rule 335-13-1-.13.

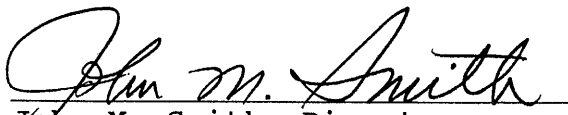
D. That within 30 days of notice to Mr. Argo of the Department's acceptance of the closure plan, Mr. Argo shall complete implementation of the accepted closure plan.

E. That nothing in this Order shall preclude Mr. Argo from operating a recycling business as long as Mr. Argo does not accumulate wastes in such a manner that it constitutes disposal or use the recycled material in such a way that constitutes disposal.

F. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Mr. Argo for the violations cited herein.

G. That failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against Mr. Argo for recovery of civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 16th day February, 1995.


John M. Smith, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, G. Keith Clark, hereby certify that I have served the foregoing Administrative Order upon Steve Argo by sending the same postage paid, through the U.S. Mail, as Certified Mail, (P 686 594 173), with instructions to forward and return receipt requested to:

Steve Argo
P. O. Box 2428
Phenix City, AL 36868-2428

DONE this 16th day of February, 1995.



G. Keith Clark